IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

MISC. CIVIL APPLICATION (REVIEW) NO. 901 OF 2025
IN WRIT PETITION NO. 4164 OF 2024 (D)

(Lupin Limited Vs. The State of Maharashtra & Ors.)

Office Notes, Office Memoranda of Coram, appearances, Court's orders of directions and Registrar's Orders.	Court's or Judge's orders.

Mr. Prakash Shah, Senior Counsel with Mr. Mohit Rawal and Mr. Akshaya Sudame, Counsels for the applicant.
Mr. S.S. Hulke, A.G.P. for respondent no.1/State.
Mr. M.I. Dhatrak, Special Counsel for respondent nos. 2 to 7.

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**CORAM : ANIL L. PANSARE AND
RAJ D. WAKODE, JJ.
MARCH 27, 2026**

There occurred certain errors in the order sought to be reviewed. Firstly, Mr. M.I. Dhatrak, learned Counsel, appeared for respondent nos. 2 to 7, whereas, his appearance is mentioned for respondent nos. 1 to 7. Another apparent error is that in paragraph 12, the matter is said to be remanded back to respondent no.6 – Assistant Commissioner of the State Tax, whereas, it should be remanded back to respondent no.5 – Deputy Commissioner of State Tax. There occurred yet another mistake. It is mentioned in paragraph 10 that A.G.P. made certain submissions, when, in fact, the submissions noted in paragraph 10 were made by Mr. Dhatrak.

2] Necessary corrections shall be made immediately, and corrected copy of order be uploaded forthwith.

3] Heard.

4] The review is sought on the ground that while remanding the matter back, this Court has directed the authority below to examine whether the services under question were for authorized operations, as endorsed by the specified officer of the zone. The relevant paragraph reads thus :

> *"12. That being so, we are of the considered view that this matter will have to be remanded back to respondent No.6 – Assistant Commissioner of the State Tax, to pass orders afresh, in the light of the law laid down in Britannia's case and after examining whether the services under question were for authorized operations as endorsed by the specified officer of the zone."*

5] While passing above order, our attention was drawn to Section 16 of the Integrated Goods and Service Tax Act, 2017 (for short "Act of 2017"), read with Rule 89 of the Central Goods and Services Tax Rules, 2017 (for short "Rules of 2017"), by the Special Counsel for respondent nos. 2 to 7, to contend that refund of tax can be claimed, if the services are for authorized operations, as endorsed by the specified officer of the zone.

6] Mr. Prakash Shah, learned Senior Counsel for the applicant, has drawn our attention to Section 16 of the Act of 2017 to point out that the definition of 'Zero Rated Supply' was amended by the Finance Act, 2021, with effect from 1/10/2023, where the words 'for authorized operations' were inserted in Clause (b) of sub-section (1) of Section 16.

7] We have gone through the said provision to find that the definition was indeed amended on the aforesaid date. The transaction under question pertains to the period prior to 1/10/2023, and to be very precise, the transaction is for the period from March – 2020 to June – 2023.

8] In that view of the matter, since the above expression was added in October – 2023, though there is reference to the said expression under Rule 89 of the Rules of 2017, we are of the view that the later part of the direction given in paragraph 12, *viz.*, to examine whether the services under question were for authorized operations will have to be deleted. We, however, grant liberty to the concerned respondent to put forth this plea, if so desired before respondent no.5 and if so raised, it shall be considered on its own merits.

9] At this stage, Mr. Prakash Shah, learned Senior Counsel, submits that in terms of Rule 89 of the Rules of 2017, it is the supplier of services, who may file application for refund with evidence regarding receipt of services for authorized operations, and not the entities, like petitioner, which is a Unit located in special economic zone. Thus, according to him, this provision will not apply to the Unit located in special economic zone.

10] This aspect will be considered by respondent no.5 – Deputy Commissioner of State Tax, if so pleaded.

11] Accordingly, the later part of paragraph 12 shall stand deleted with liberty as mentioned above. The application is partly allowed in terms of above. Pending application also stands disposed of.

(JUDGE) **(JUDGE)**

Sumit